

Congress of the United States
Washington, DC 20515

April 23, 2018

The Honorable Kirstjen Michele Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave, NW
Washington, D.C. 20016

The Honorable L. Francis Cissna
Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave, NW
Washington, D.C. 20529

Dear Secretary Nielson and Director Cissna:

We write to respectfully request that the U.S. Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS) provide up-to-date data regarding the continued administration of Deferred Action for Childhood Arrivals (DACA). As you know, on September 5, 2017, then-Acting Secretary Elaine C. Duke directed USCIS to stop accepting all initial and most renewal requests for DACA.¹ On January 9, 2018, a federal district court in California issued a nationwide preliminary injunction directing USCIS to resume accepting renewal requests.² On February 13, 2018, another federal district court in New York issued a second injunction similar in scope.³ On February 27, 2018, the Supreme Court of the United States denied expedited review of the California injunction, requiring USCIS to continue to accept renewal applications for the time being.⁴ Additional litigation on a variety of related issues to DACA has also been filed, discussed below.

We commend USCIS' April 3, 2018 release of DACA-related data for adjudications through March 31, 2018.⁵ In light of the continued administration of DACA under these injunctions, we respectfully request that USCIS and DHS answer the proceeding questions and provide the data

¹ Memorandum from Elaine C. Duke, Acting Secretary, U.S. Department of Homeland Security on Memorandum on Rescission Of Deferred Action For Childhood Arrivals (DACA) to James W. McCament, Acting Director, U.S. Citizenship and Immigration Services, et. al. (Sept. 5, 2017), available at <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>

² *Regents of Univ. of California v. United States Dep't of Homeland Sec.*, 279 F. Supp. 3d 1011 (N.D. Cal. 2018), cert. denied, 583 U.S. __ (2019).

³ *Batalla Vidal v. Nielsen*, 1:16-cv-04756 (E.D.N.Y.).

⁴ *Id.*

⁵ U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY, Immigration and Citizenship Data (March 21, 2018), <https://www.uscis.gov/tools/reports-studies/immigration-forms-data> (Under "Deferred Action for Childhood Arrivals (DACA)" header) [hereinafter "Form I-821D Data"].

requested below.⁶ Unless otherwise noted, all requests are for data as of the date of this request.

1. **Processing Time.** Please provide data regarding the current processing time for requests for DACA renewal, including the percentage of DACA renewal requests adjudicated within 30, 60, 90, 120, 150, and over 150 days from receipt.
2. **Population Data.** Please provide data regarding the number of:
 - a. Noncitizens who possess a valid, unexpired grant of DACA (referred to as “Active DACA Recipients” by USCIS);
 - b. All approved, denied, and pending renewal requests (“DACA Renewals Pending”);
 - c. All approved, denied, and pending initial requests (“DACA Initials Pending”); and
 - d. All approved, denied, and pending renewal requests filed since January 10, 2018.
3. **Backlogged Initial Requests.** As of March 31, 2018, USCIS currently has 16,252 initial DACA requests pending.⁷ These requests have been pending for at least five months, as these requests must have been accepted by USCIS by September 5, 2017. What is the average number of days these initial requests have been pending? Why has USCIS not yet processed 16,000 outstanding initial DACA requests?
4. **Quarterly Data.** Throughout the existence of DACA, USCIS regularly released quarterly data on its website regarding the number of requests accepted, rejected, approved, denied, and pending.⁸ Does USCIS plan to continue to release this dataset on a quarterly basis? If not, why not?
5. **Records Release.** As part of preliminary injunction in *Regents of the University of California v. Department of Homeland Security*, the judge ordered USCIS to “keep records of its actions on all DACA-related applications and provide summary reports . . . on the first business day of each quarter.” Is USCIS’ April 3, 2018 data release⁹ in response to this order? If so, are there other records or summary reports that USCIS has or will provide to the court? If so, will USCIS commit to publicly posting these reports on the USCIS website? If not, why not?
6. **Terminations without Due Process.** As part of the preliminary injunction in a third case, *Inland Empire Immigrant Youth Collective et al v. Elaine C. Duke* (where plaintiffs sued to enjoin DHS from terminating DACA grants without due process),¹⁰ the district court directed DHS to identify and restore the deferred action status of all DACA recipients whose DACA status was revoked without due process since January 19, 2017.

⁶ Many of the data requests in this letter represent requests for updates of data USCIS previously released. Others represent new or previously unreleased categories of data. *See id.*

⁷ Form I-821D Data, *supra* note 5 (“DACA Pending Renewal and Initial Requests, as of Jan. 31, 2018”).

⁸ USCIS last released this quarterly data (including January of 2018) on February 28, 2018. Form I-821D Data, *supra* note 5 (“Form I-821D: cumulative number of requests accepted for processing, biometrics appointments scheduled, requests ready for review and requests completed to-date”).

⁹ Form I-821D Data, *supra* note 5 (Referring to all the data released by USCIS outside of its regular quarterly release).

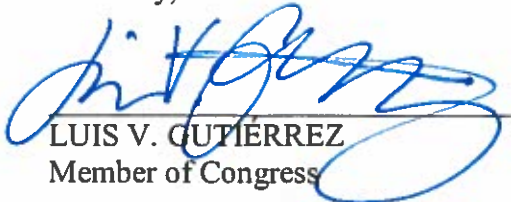
¹⁰ 5:17CV02048 (2018).

As of the date of this request, how many individuals has DHS identified that fall under this class? How many grants of DACA has USCIS restored under this injunction?

7. **Terminations, Generally.** USCIS released *DACA Terminations Related to Criminal and Gang Activity by Fiscal Year*, which provides an overview of public safety-related terminations of DACA.¹¹ Not surprisingly these terminations represent less than 0.15 percent of all DACA requests the agency has ever approved. USCIS, however, has not released data regarding terminations of DACA grants for *all* categories. Accordingly, how many grants of DACA has USCIS terminated (under all grounds and not just public safety grounds) since the beginning of DACA?
8. **Advance Parole Filing Fees.** As part of DACA's rescission, then-Acting Secretary Duke directed DHS to reject requests for advance parole (Form I-131), administratively close any pending requests, and refund filing fees to applicants. Please provide data regarding the number of DACA-related advance parole requests rejected and administratively closed under this policy. Has DHS refunded all pending filing fees for administratively closed advance parole applications? If not, how many cases with pending refunds remain outstanding?
9. **Written Reminders to Renew.** Previously, 180 days before an individual's DACA expiration, USCIS mailed written notices reminding DACA recipients to submit their renewal requests. Has USCIS resumed mailing these reminder notices? If not, why not and will USCIS agree to resume this practice in the spirit of fully complying with the two injunctions?
10. **Confidentiality.** As part of the injunction in *Casa De Maryland v. U.S. Department of Homeland Security*, the court ordered that DHS would be enjoined "from using or sharing Dreamer-provided information obtained through the DACA program for enforcement or deportation purposes."¹² How does USCIS plan to implement this order and prevent the sharing of confidential DACA recipient information with U.S. Immigration and Customs Enforcement (ICE)? How many DACA recipients has USCIS referred to ICE for enforcement?

Thank you for your consideration of the above requests. If you have any questions, please contact AnneRose Menachery (Rep. Gutiérrez) at (202) 225-8203 and Jeremy Lippert (Rep. Coffman) at (202) 225-7882.

Sincerely,



LUIS V. GUTIÉRREZ
Member of Congress



MIKE COFFMAN
Member of Congress

¹¹ Form I-821D Data, *supra* note 5 ("Terminations Related to Criminal and Gang Activity from 2013 to 2017, as of 10/01/2017").

¹² 8:17-CV-02942-RWT (2018).